

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14349, of 1229 Wisconsin Avenue Associates, as ANC 2E amended, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the off-street parking requirements (Sub-section 7202.1) for a proposed modification of plans approved prior to March 1, 1985, for the construction of a retail purposes structure in a C-2-A District at premises 1229 Wisconsin Avenue, N.W., (Square 1208, Lot 59.

HEARING DATE: October 23, 1985
DECISION DATE: November 6, 1985

FINDINGS OF FACT:

1. The application had been advertised originally for a special exception under Sub-section 7205.4 to allow required parking spaces to be located elsewhere than on the same lot where the principal use is located and for a variance from the prohibition against required parking spaces being accessible at all times directly from streets or alleys (stacked parking) (Sub-section 7206.4) or in the alternative for a variance from the off-street parking requirements (Sub-section 7202.1) for a proposed modification of plans approved prior to March 1, 1985, for the construction of a retail purposes structure in a C-2-A District at premises 1229 Wisconsin Avenue, N.W., (Square 1208, Lot 59. Under the first alternative, accessory parking will be provided at 3220 Prospect Street, N.W., (Square 1207, Lots 104, 838-841, 843 and 906).

2. The application was subsequently advertised for the alternative relief only.

3. The subject site contains approximately 8,107 square feet of land area, and is located on the east side of Wisconsin Avenue, N.W., midway between M Street and N Street. The property is zoned C-2-A, and is located in the Georgetown Historic District.

4. The subject structure will be a two-story plus cellar retail structure containing approximately 15,867 square feet of total gross floor area and cellar floor area (of which 14,675 is net leasable area). It is currently under construction. The building under construction was originally designed and approved as to zoning as a retail/service spaces ranging generally between 2,700 square feet

and 4,600 square feet. Three separate entrances were designed into the facade, and the structure was otherwise designed to accommodate multiple tenants.

5. The applicant is providing 11 parking spaces on two levels in the building, which will allow occupancy by at least four separate retail/service tenants. The Board finds that the parking requirements that were in effect prior to the recent revisions required a maximum of 11 parking spaces for four or more retail or service tenants. The Board further finds that occupancy by four or more retail or service tenants may occur as a matter-of-right at the completion of construction.

6. The applicant has been engaged in leasing activities for the building for the past year. There have been many expressions of interest from small "boutique" retail/service uses desiring less than 1,500 square feet. There have also been several expressions of interest from large retail/service uses seeking to use either half or all of the new building.

7. The applicant in assessing these expressions of interest, has determined to target high quality retailers of national stature or other similar high quality service-type uses in the building, similar to the high quality tenants generally found in Georgetown Park, a short walking distance of one block to the south. Potential tenants under consideration include high quality retailers already in Georgetown or elsewhere in the city who are seeking to obtain more floor space. The applicant testified, and the Board finds, that one or two large tenants in the building would have less impact on the neighborhood in terms of traffic, signage, trash, and other factors than would the establishment of a "boutique mini-mall" in the building. The applicant also testified, and the Board finds, that a reduced number of separate tenants would also allow for a more efficient use of the building.

8. The Zoning Administrator has determined that a reduction in the overall number of tenants in the building will require a recomputation of the number of parking spaces required under the Zoning Regulations. The recently revised parking regulations require 43 parking spaces in conjunction with the retail or service occupancy, regardless of the number of separate tenants. Thus, the Board finds that the applicant is confronted with a situation where a reduction of even one tenant in the building, from four to three, will require a fourfold increase in the number of parking spaces under the Zoning Regulations, from 11 spaces to 43 spaces.

9. The property is located in the Georgetown Historic District, and is of a narrow elongated configuration, with a depth of over 200 feet, and a width of approximately 38 feet. The lots on both sides of the subject site are

improved with existing three-story retail structures. The applicant has unsuccessfully attempted to purchase the unimproved portions of these lots for the purpose of making a larger parking garage. These lots are therefore not available to the applicant in order to increase the width of the subject site. The applicant after diligent search, has been unable to locate any other accessory parking spaces off-site which can be used to meet the parking requirements in this case, i.e. that there be 32 parking spaces, measuring nine feet by 19 feet, set aside on a lot exclusively for the use of the retail building at 1229 Wisconsin Avenue, N.W.

10. The strict application of the regulations would require the provision of 43 parking spaces for less than four tenants on this site. The architect testified, and the Board finds, that the provision of this number of parking spaces on-site would theoretically require excavation of 14 parking levels on a continuous ramp, assuming that aisle width and turning radius on the ramp were not an issue. This large number of parking levels would be required because of the inordinately large percentage of the floor area of each parking level that would be taken up by ramp space. Also, based upon the testimony of the architect, the Board finds that the presence of rock approximately 20 feet below the surface would virtually preclude further excavation for additional parking levels.

11. The architect testified, and the Board find that in reality, however, a circular ramp simply cannot be used on this lot, because of the extreme narrowness of the site. The site is too narrow to accommodate a circular ramp that would provide the proper turning radius. In addition, based on the evidence and testimony, the Board finds that the extensive engineering work that would be required to support the existing building while excavating below would be financially infeasible and virtually impossible. The present configuration, with one ramp up to the first floor, and one ramp down to the basement level, is the only means of access to parking that will work on this site. The architect further testified, and the Board finds, that considerations for the location of the required means of egress under the Building Code and other structural limitations for the basement and first floor, including columns and structural supports, also limit the location of additional parking spaces in the building. For these reasons, the Board finds, that more parking spaces cannot be added on the site.

12. The applicant's expert traffic and parking consultant testified, and the Board finds, that the proposed variance relief will have less impact on the neighborhood than the alternative special exception to locate parking spaces on the parking lot on Prospect Street, which is no longer being requested. These parking spaces will not be held out exclusively for the use of the building at 1229

Wisconsin Avenue, but instead will remain open for use by the general public, including patrons of 1229 Wisconsin Avenue and any other visitors to Georgetown. The spaces would then be available to serve the general parking demand, instead of remaining vacant if they were not being used by patrons of 1229 Wisconsin Avenue. The applicant's expert traffic and parking consultant also testified that such an arrangement, under special exception relief, would be counter productive in terms of the overall parking supply in Georgetown. The applicant testified that, with one or two tenants occupying the building, parking in the garage could be controlled to the extent that parking could be stacked, thereby accommodating more than 11 cars in the garage. The Board so finds.

13. The applicant's expert traffic and parking consultant testified, and the Board finds, that the incremental increase in traffic generated by this retail building in Georgetown will be minimal. This is because visitors to Georgetown normally do not seek out one particular destination, visit that destination, and then leave. Rather, the Board finds that visitors to Georgetown typically visit the many shops and other facilities along the streets of Georgetown. Therefore, the large majority of persons who would visit the building are likely to be in Georgetown already, and would not be making a special trip to stop at this location, nor would they be moving their vehicle from another location in Georgetown to this location when they visit this site. Moreover, the Board finds that visitors to Georgetown typically do not move their cars from one parking garage to the next each time they visit a different store.

14. The applicant's expert traffic and parking consultant testified that there are two lots and two garages within one block of the site, which provide over 600 parking spaces. He testified that because of the high rate of turnover of curb spaces, these were not included in his calculations, nor did he include other lots and garages in the vicinity, but outside of the one block area. His survey found that at various different times, there were substantial spaces available in excess of the required 32 spaces. The Board so finds.

15. The applicant's expert traffic and parking consultant also testified, and the Board finds, that whereas 43 spaces may be appropriate for an isolated retail store of approximately 14,650 square feet, the fact is that in Georgetown, with its great number and variety of retail facilities, the application of one more store adds almost no new trips to the area, i.e. it is close to a zero trip producer. He concluded that the 11 spaces provided on-site would be adequate to serve the needs of the structure. The Board so finds.

16. The D.C. Department of Public Works (DPW) by memorandum dated October 16, 1985, reported that it had no objection to the proposal. The DPW reported that the site is bounded on the north by N Street, on the west by Wisconsin Avenue and on the east by 31st Street, N.W. N Street is a 30 foot wide local street with minimal traffic. Residential permit parking is in effect. M Street is a 60 foot wide principal arterial with an average daily traffic volume (ADT) of 30,100 vehicles near the site. Parking is prohibited between 7:00 A.M. and 9:30 A.M. and from 4:00 P.M. to 6:30 P.M. Wisconsin Avenue is a 56 foot wide minor arterial with an ADT of 20,100 vehicles near the site. Parking is prohibited between 7:00 A.M. and 9:30 A.M. and from 4:00 P.M. to 6:30 P.M. and 31st Street is a 30 foot wide local street with minimal daily traffic. Residential permit parking is in effect.

17. The DPW further reported that the site is served directly by nine Metrobus routes which provide in-bound and out-bound connections between the downtown Central Business District and the upper northwest area of Washington known as Friendship Heights. Within two blocks of the site are four additional bus routes on K Street which provide direct service from downtown Washington to the Foxhall Road/MacArthur Boulevard area and into suburban Maryland. The Metropolitan Washington Area Council of Governments designates this area as a 52.3 percent transit zone for metropolitan area home based work trips.

18. The DPW further reported that because the building permit was granted prior to the change in zoning regulations which requires this revised project to have 43 parking spaces, approving this request has virtually no impact. Under terms of the building permit 14,675 square feet of retail space is provided with 11 parking spaces. If the variance is granted, then approximately the same amount of retail space would be provided with the same 11 parking spaces. The only change which would occur is that there may be less than four retail establishments in the building. This is not allowed under the current zoning regulations with the same 11 parking spaces. The DPW was of the opinion that a change in the number of retailers would not have an appreciable impact on the parking demand created by this development.

19. The DPW recommended that the 11 on-site parking spaces be adequately signed so as to direct patrons to the rear of the building. The DPW also recommended that no more than 3 of these spaces be designated for employees, and that the remaining 8 parking spaces be adequately signed for the exclusive use of customers of the project. The Board concurs with the reasoning and recommendation of the DPW.

20. Advisory Neighborhood Commission by report, dated October 8, 1985, reported that the applicant's premises are located in the heart of the retail area of Georgetown and was formerly the site of a public parking facility that was used by customers of the neighboring businesses. The applicant processed its building permits prior to the revision in the parking requirements in March, 1985. Applicant stated that there would be four separate tenants which resulted in a requirement for only 11 on-site parking spaces under the old regulations. Had the applicant stated at that time that there was to be only one tenant, it would have resulted in a requirement for 47 on-site parking spaces. In the opinion of the ANC the reality of the situation in Georgetown today is that there is no reservoir of off-street parking spaces to accommodate the 32 automobiles, a fact that is substantiated by the applicant's withdrawal of their original application for a special exception. The forced over-reliance of merchants on the pedestrian trade has led to the emergence of a disproportionate number of small "junk" merchandise stores and carry-out establishments to the detriment of the Georgetown retail sector.

21. Advisory Neighborhood Commission 2E recommended that the requested relief from the requirement for 32 additional parking spaces be denied on the grounds that the relief cannot be granted without undermining the intent, purpose and integrity of the zone plan. In the alternative, if the Board decided over the strong wishes on the surrounding community, to grant the relief, ANC requested that relief be predicated on a condition that the premises would not be used by allowable uses that generate a high number of vehicle trips on a regular basis. Specifically, the order should include a prohibition against the use of premises as a medical clinic, restaurant, fast food establishment or movie theater.

22. The Board is required by statute to give "great weight" to the issues AND CONCERNS OF AN ANC reduced to writing and on which a recommendation is based. For the reasons set forth below the Board does not concur with the reasoning of the ANC:

- a. The record indicates the availability of sufficient parking spaces in the vicinity to accommodate any potential increased demand. As the applicant's expert testimony indicates, the Board finds that the provision of 32 parking spaces by special exception in this case would be counter-productive to the overall parking supply in Georgetown.
- b. As the applicant's expert testimony indicates, the addition of this retail/service facility in Georgetown will be in effect a zero trip producer.

- c. The applicant testified that the relief is being sought so that the building can be leased to a major tenant, rather than to the sort of small "junk" merchandisers that the ANC finds objectionable. The Board notes that at least four separate tenants could occupy the building as a matter-of-right.
- d. For these reasons, and with the conditions set forth below, the Board disagrees with the ANC conclusion that the requested variance relief will undermine the intent, purpose and integrity of the zone plan. The Board, however, is most amenable to the alternative recommendation of the ANC.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking an area variance, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the relief will not be of substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan. The Board concludes that the applicant has met its burden of proof. The Board concludes that based on Finding Nos. 9, 10 and 11 the practical difficulty is inherent in the land.

The Board further concludes that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan. The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled by statute. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:


1. The property shall not be occupied as a theater, medical clinic or fast food establishment, without prior approval of the Board.
2. The parking garage and driveways shall be kept well lit, free of refuse and debris and shall be policed on a regular basis at the expense of the tenant.
3. There shall be appropriate signage for the public indicating the location and availability of parking in the garage and the applicant shall work with the parking lot operators in the same square in order to coordinate that signage.

VOTE: 4-0 (Patricia N. Mathews, Charles R. Norris,

William F. McIntosh and Carrie L. Thornhill to grant; Douglas J. Patton not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


CECIL B. TUCKER

Acting Executive Director

FINAL DATE OF ORDER: 04 MAR 1986

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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